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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the
11th December, 1964:—

I

BILL No. XXII OF 1964

A Bill further to amend the Madras Port Trust Act, 1905.

BE it enacted by Parliament in the Fifteenth Year of the Republic
of India as follows :—

1. (1) This Act may be called the Madras Port Trust (Amend-
ment) Act, 1964.

(2) It shall come into force on such date as the Central Govern-
ment may, by notification in the official Gazette, appoint.

Short
title
and com-
mence-
ment.

Madras Act
11 of 1905.

2. In section 39 of the Madras Port Trust Act, 1905 (hereinafter
referred to as the principal Act), after sub-section (3), the following
sub-section shall be inserted, namely:—

Amend-
ment of
section 39

“(4) The Board shall prepare and issue an outturn report
of every vessel within thirty days from the common landing
date and thereafter, if it is found that any package or packages
have not been landed, shall, if so required by the importer, issue
shortlanding certificate therefor within thirty days of the issue
of the outturn report.”.

Amend-
ment of
section 40.

3. In section 40 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

“(1) Subject to the provisions of this Act, the responsibility of the Board for the loss, destruction or deterioration of goods of which it has taken charge shall,—

(i) in the case of goods received for carriage by railway, be governed by the provisions of the Indian Railways Act, 1890; and 9 of 1890.

(ii) in other cases, be that of a bailee under sections 151, 152 and 161 of the Indian contract Act, 1872, omitting the words “in the absence of any special contract” in section 152 of the said Act: 9 of 1872.

Provided that no responsibility under this section shall attach to the Board until a receipt mentioned in sub-section (3) of section 39 is given by the Board”.

Amend-
ment of
section
110.

4. In section 110 of the Principal Act, for the words “six months” the words “one year” shall be substituted.

Substitu-
tion of
section
111.

5. For section 111 of the principal Act, the following shall be substituted, namely:—

“111. No suit or other legal proceedings shall lie against the Board or any member or employee thereof in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to or under the control of the Board.”

STATEMENT OF OBJECTS AND REASONS

Certain difficulties are being experienced by the trade in the working of the Act. The present Bill seeks to remove those difficulties.

M. P. BHARGAVA.

II

BILL No. XIX OF 1964

A Bill to provide for the constitution and regulation of a Force called the Port Protection Force for the better protection and security of Port property.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Port Protection Force Act, 1964.

(2) It applies to all major ports within the Union of India.

(3) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Short
title,
extent and
commen-
cement.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) "Force" means the Port Protection Force constituted under section 3;

(b) "Board" in relation to a port means the Board of Trustees in relation to that port;

15 of 1908.

(c) "Major Port" or "port" means a major port as defined in the Indian Ports Act, 1908;

(d) "Member of the Force" means a person appointed to the Force under this Act other than a superior officer;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "port property" includes any goods, money or valuable security, or animal, belonging to, or in the charge or possession of, a port administration, whether owned by them or owned by any consignor, consignee, shipper or agent for sale, custody, loading or unloading;

(g) "superior officer" means any of the officers appointed under section 4, and includes any other officer appointed by the Central Government as a superior officer of the Force.

Constitu-
tion of
the Force.

3. (1) There shall be constituted and maintained by the Board a Force to be called the Port Protection Force for the better protection and security of port property.

(2) The Force shall be constituted in such manner, shall consist of such number of superior officers and members of the Force and shall receive such pay and other remuneration as may be prescribed in relation to any port under this Act, or under the provisions of any law applicable to that port.

Appoint-
ment
and
powers of
superior
officers.

4. (1) The Board may appoint a person to be the Chief Security Officer of the Force and may appoint other persons to be Security Officers or Assistant Security Officers of the Force.

(2) The Chief Security Officer and every other superior officer so appointed shall possess and exercise such powers and authority over the members of the Force under their respective commands as is provided by or under this Act.

Classes
and ranks
among
members
of the
Force.

5. There shall be the following classes of officers and other ranks among the members of the Force, who shall take rank in the order mentioned, namely:—

A. Classes of officers—

- (i) Inspector,
- (ii) sub-inspector,
- (iii) assistant sub-inspector.

B. Classes of other ranks—

- (i) Head rakshak,
- (ii) senior rakshak,
- (iii) rakshak.

Appoint-
ment of
members
of the
Force.

6. The appointment of members of the Force shall rest with the Board who shall exercise that power in accordance with rules made under this Act:

Provided that the power of appointment under this section may also be exercised by such other superior officer as the Board may by order specify in this behalf.

7. (1) Every member of the Force shall receive on his appointment a certificate in the form specified in the Schedule, under the seal of the Board or of the Chief Security Officer or such other superior officer as the Board may specify in this behalf, by virtue of which the person holding such certificate shall be vested with the powers of a member of the Force.

Certificates to members of the Force.

(2) Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a member of the Force, and, on his ceasing to be a member of the Force, shall be forthwith surrendered by him to any superior officer empowered to receive the same.

8. (1) The superintendence of the Force shall vest in the Board and subject thereto the administration of the Force shall vest in the Chief Security Officer and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.

Superintendence and administration of the Force.

9. (1) Subject to the provisions of article 311 of the Constitution and to such rules as the Board may make under this Act, any superior officer may—

Dismissal, removal, etc. of members of the Force.

(i) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty, or unfit for the same; or

(ii) award any one or more of the following punishments to any member of the Force who discharges his duty in a careless or negligent manner, or who by any act of his own renders himself unfit for the discharge thereof, namely:—

(a) fine to any amount not exceeding seven days' pay or reduction in pay scale;

(b) confinement to quarters for a period not exceeding fourteen days with or without punishment, drill, extra guard, fatigue or other duty;

(c) removal from any office of distinction or deprivation of any special emolument.

(2) Any member of the Force aggrieved by an order made under sub-section (1) may appeal against the order to such authority as may be prescribed, and the decision of the said authority thereon shall be final.

10. The Chief Security Officer and every other superior officer and every member of the Force shall for all purposes be regarded as staff of the Board within the meaning of the Indian Ports Act, 1908, in relation to that port and shall be entitled to exercise the powers conferred on the port staff by or under that Act.

Officers and members of the Force to be deemed to be port staff.

Duties of members of the Force.

11. It shall be the duty of every superior officer and member of the Force—

- (a) promptly to execute all orders lawfully issued to him by his superior authority;
- (b) to protect and safeguard port property;
- (c) to remove any obstruction in the movement of port property; and
- (d) to do any other act conducive to the better protection and security of port property.

Power to arrest without warrant.

12. Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest—

- (a) any person who has been concerned in an offence relating to port property punishable with imprisonment for a term exceeding six months, or against whom a reasonable suspicion exists of his having been so concerned; or
- (b) any person found taking precautions to conceal his presence within port limits under circumstances which afford reason to believe that he is taking such precautions with a view to committing theft of, or damage to, port property.

Power to search without warrant.

13. (1) Whenever any superior officer, or any member of the Force, not below the rank of a senior rakshak, has reason to believe that any such offence as is referred to in section 12 has been or is being committed and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain him and search his person and belongings forthwith and, if he thinks proper, arrest any person whom he has reason to believe to have committed the offence.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall so far as may be, apply to searches under this section. 5 of 1898.

Officers and members of the Force to be considered always on duty.

14. (1) Every superior officer and member of the Force shall, for the purpose of this Act, be considered to be always on duty.

(2) No superior officer or member of the Force shall engage himself in any employment or office other than his duties under this Act.

Responsibilities of members of the Force during suspension.

15. A member of the Force shall not by reason of his suspension from office cease to be a member of the Force; and he shall, during that period, be subject to the same responsibilities, discipline and penalties to which he would have been subject if he were on duty.

16. (1) Without prejudice to the provisions contained in section 9, every member of the Force who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation of lawful order made by a superior officer, or who shall withdraw from the duties of his office without permission, or who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding six months.

Penal-
ties for
neglect
of duty,
etc.

5 of 1898. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this section shall be cognizable.

22 of 1922. 17. The Police (Incitement to Disaffection) Act, 1922, shall apply to members of the Force as it applies to members of a police force.

Application
of Act 22
of 1922 to
members
of the
Force.

4 of 1936.
14 of 1947.
63 of 1948. 18. Nothing contained in the Payment of Wages Act, 1936, or the Industrial Disputes Act, 1947, or the Factories Act, 1948, shall apply to members of the Force.

Certain
Acts not
to apply
to mem-
bers of the
Force.

19. (1) In any suit or proceeding against any superior officer or members of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the orders of a competent authority.

Protection
of acts of
members
of the
Force.

(2) Any such plea may be proved by the production of the order directing the act, and if it is so proved, the superior officer or members of the Force shall thereupon be discharged from any liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any superior officer or member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder shall be commenced within three months after the Act complained of shall have been committed and not otherwise; and notice in writing of such proceeding and of the

cause thereof shall be given to the person concerned and his superior officer at least one month before the commencement of such proceeding.

Power
to make
rules.

20. (1) The Board may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) regulating the classes and grades and the pay and remuneration of superior officers and members of the Force and their conditions of service in the Force;

(b) regulating the powers and duties of superior officers and members of the Force authorised to exercise any functions by or under this Act;

(c) fixing the period of service for superior officers and members of the Force;

(d) regulating the punishments and providing for appeals from, or the revision of, orders of punishment, or the remission of fines or other punishments;

(e) any other matter which has to be or may be prescribed.

(3) All rules made under this section shall be submitted for approval of the Central Government as soon as possible and in all cases within thirty days after they are made and shall be subject to such modifications as may be made by the Central Government.

Certain
sections
of Bengal
Act III of
1880 not to
have
effect.
Saving.

21. Sections 129 to 134 of the Calcutta Port Act, 1890 shall cease to have force on the application of this Act.

Bengal
Act
III of 1890.

22. If before the application of this Act, there exist in any Port Acts any laws for regulating the appointments, terms and conditions of service of the officers and staff of the Board such provisions of law shall remain in force in relating to that port under this Act.

Persons
employed
under this
Act to be
public
servants
for certain
purposes.

23. Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code and for the purposes of the Prevention of Corruption Act, 1947, be deemed to be a public servant within the meaning of section 21 of the said Code.

45 of 1860.
2 of 1947.

THE SCHEDULE

(See section 7)

A. B. has been appointed a member of the Port Protection Force under the Port Protection Force Act and is vested with the powers, functions and privileges of a member of the Force.

STATEMENT OF OBJECTS AND REASONS

The volume of exports and imports handled by the major ports has increased tremendously during the recent years which has necessitated larger security staff for the protection of port property. At the moment, the security staff consists of the port police, which is drawn from the city police force, and a limited number of watch and ward staff under the direct employ of the port authorities. The port police, being part and parcel of the city police, are subject to the demands of the city's overall law and order problem and, as such, they are frequently drafted to augment the city force. When such withdrawals take place, the port is left without an adequate force, which often leads to spurt in pilferage. Further, at major ports and terminals, special problems arise from their complex and peculiar structure, and it has been found that an average police constable is not well equipped to tackle such problems. This is obviously an unsatisfactory position and should be remedied immediately by creating an independent Port Protection Force.

The Bill seeks to provide for the constitution and regulation of a Force to be called the Port Protection Force for the better protection and security of port property.

M. P. BHARGAVA.

EXPLANATORY MEMORANDUM REGARDING DELEGATED LEGISLATION

The broad features envisaged in the Bill, namely, the constitution of the Port Protection Force, appointments and functions of officers and members of the Force, its superintendence and administration and penalties to which members of the Force are liable are laid down in the Bill itself.

Clause 20 of the Bill empowers the Board, subject to the approval of the central Government, to make rules to carry out the purposes of the proposed enactment. The several matters in relation to which such rules may be made have been detailed in the various items of sub-clause (2) of that clause and relate principally to the procedure to be followed in regulating the classes and grades, the terms and conditions of service and the powers and duties of and the punishments to members of the Force. These matters are details of procedure necessary for the effective governance of the Force and it is unnecessary and cumbersome to provide for these administrative details in the enactment itself.

The delegation of legislative power is thus of the normal type.

B. N. BANERJEE,
Secretary.

